

## **Workers' Compensation Advisory Committee (WCAC)**

Meeting minutes

April 16, 2003

### **INTRODUCTIONS:**

#### **PRESENT:**

COMMITTEE MEMBERS PRESENT: Clif Finch, Association of Washington Business; Jon Warling, Mar-Jon Orchards; Rick Slunaker, Associated General Contractors for Mike Sotelo; Roger Boatwright, WA State Building & Construction Trades Council; Lori Carlson, Washington Self-Insurance Association; Bob Malooly, Chair; Bev Gunther, Recorder

COMMITTEE MEMBERS NOT PRESENT: Mike Sotelo, W.G. Clark Construction, Inc.; Owen Linch, Joint Council of Teamsters; Robby Stern, Washington State Labor Council, AFL-CIO; Tom Egan, Board of Industrial Insurance Appeals (BIIA)

PRESENTERS: Paul Trause, Mark Mercier, Steve Cant, Kathy Kimbel, Jami Lifka, Grace Wang, Roy Plaeger-Brockway, Dave Overby; special guest presenter Scott Daniels, Conning Assessment Management

GUESTS: Mark Johnson, NFIB; Nancy Dicus, TOC Management Services; Frank Prochaska, AWPPW; Tina Coakley, Boeing; Dave Kaplan, WSIA; Lauren Gubbe, AGC; Sharon Morris, U of W; Terry Peterson, CRM; Sara Crumb, WSTLA;

L&I STAFF: Peter Lichtblau, Bill Vasek, Jody Moran, Vickie Kennedy, George Pickett, Heather Grob, Diane Doherty, Suzanne Mager

### **INTRODUCTIONS**

**Review/Approval of December 18, 2002 Meeting Minutes** – Minutes approved as presented.

#### **Worker Comp Reform – Paul Trause, Director**

Paul shared his frustration and concern that Business and Labor were unable to come to agreement on legislation that could reform the workers' compensation system. Paul indicated he understands that the history and issues between Business and Labor make the process more complicated, however, by not coming to agreement, an opportunity to do something positive has been missed. The failure to come to agreement will ultimately result in substantial rate increases.

Paul indicated that, with lack of agreement, workers' compensation reform remains very important and the department will take a leadership role in working with both Business and Labor to accomplish needed reform. Paul stressed that vocational rehabilitation needs to be changed, the department needs to control hearing-loss claim costs, that there needs to be a clear definition of benefits and clear time limits placed in law, and the workers' compensation system must be simplified administratively.

He reported that Claims Administration and related programs are currently working on a number of initiatives to improve processes, including but not limited to: establishment of a Medical-Only Unit, developing a triage system where experienced adjudicators perform triage of new claims and review claims at designated intervals, identifying points for key decisions in managing the claim, and developing psychiatric guidelines.

Paul announced Jody Moran has moved to Special Assistant to the Director and Sandy Dziedzic will take over as acting Program Manager for Claims Administration during the recruitment for that position.

#### **Financial Update – Mark Mercier**

Annualized Medical Growth Rates: This quarter the annualized medical growth rate for L&I was 3.7%. The growth rate in the Seattle-Tacoma-Bremerton index was 5.6%. The growth rate is increasing. Last quarter the growth rate was 1.5%.

Time-Loss Duration: The annualized changes in time-loss duration resulted in an increase of 8.3% this past quarter. Time-loss duration is still growing, but at a slightly slower rate. It grew at 12.9% the previous quarter.

Expected Result: The Contingency Reserve declined \$84 million this quarter, \$42 million less than expected. Better than expected results in equities were offset by bond devaluations: loss of investment grade. Benefits incurred were less than expected, and we had beneficial runoff of \$15 million. Claim adjustment expense was \$9 million less than expected.

Contingency Reserve: The target Contingency Reserve (10% of liabilities) was \$798 million at December 31, 2002. The department ended at \$167 million, \$631 million less than the 10% target.

Expenses and Revenues: Revenues less market adjustments were flat. Expenses were also flat if the \$61 million of “change in assets non-admitted” from the bonds dropping below investment grade had been excluded.

Benefits and Administrative Expenses: Benefits incurred have been stable over the last year.

Asset Development: Equities increased \$83 million -- \$61 million of decreased value of bonds on loss of investment grade is reflected. Note: the \$61 million of losses were unrealized at December 31, 2002.

Is It Still There? The Wilshire 5000 index was up 7.3% in the quarter and the EAFE index was up 6.2%. The markets are varying quite a bit day-to-day and week-to-week, but they seem to be varying in a range centered about where they are currently. No major change to the pattern for the near future is expected.

#### **Conning Presentation – Scott Daniels**

Scott Daniels, of Conning Asset Management, provided an overview of the insurance market including a review of the property-casualty industry and workers' compensation. Scott's

presentation also included news about the State Funds as well as results of a recent study on state workers' compensation funds focused on data through 2001 for the 21 three-way state funds.

*A copy of the presentation materials can be obtained by contacting Bev Gunther, at the Department of Labor and Industries, (360) 902-4252, or via e-mail: [gunt235@lni.wa.gov](mailto:gunt235@lni.wa.gov).*

#### **WISHA Update – Steve Cant**

Copies of the last WISHA Advisory Committee meeting minutes (March 12, 2003) and a copy of the Governor Locke February 14, 2003, memo to Paul Trause regarding implementation of the ergonomics rule were provided in the meeting packets.

Steve highlighted the SHARP update in the advisory meeting minutes, specifically their technical report on “Workplace Health and Safety Regulations: Impact of Enforcement and Consultation on Workers Compensation Claims in Washington State with Two Years of Follow-up.” It was noted that after two years, accounts with enforcement activities in fixed worksites had 23% greater decrease in compensable claim rates than those with no WISHA activity. There were no statistically significant findings for the non-fixed accounts. Steve indicated WISHA was pleased to see the positive effect their enforcement activities had on claims rates. The report is available on the L&I/SHARP website, or a copy can be obtained by contacting Steve Cant or Barbara Silverstein directly.

Steve also highlighted the discussion regarding self-insured/State Fund injury and illness data discussion. As a result of that discussion, the WISHA Advisory Committee has identified themselves as an interested party in future discussions around data integration. *Business noted their high level of interest in these discussions, indicating the department is currently putting together a matrix of the type of the information Self-Insurance and the State Fund collect – looking for gaps.*

Steve commented on the Governor's memo regarding the ergonomics rule. The essence of the memo was directing L&I to take some additional steps in an effort to assist businesses in implementing the rule due to its impact. L&I has been directed to:

- Develop simple language guides for critical industries detailing the actions necessary to bring employers in compliance.
- Establish an ergonomics resource center.
- Build an ergonomics clearinghouse.
- Work with a small business ergonomics task force.
- Appoint an ergonomics ombudsman.
- Launch a demonstration program to provide ergonomic assistance awards.
- Establish an ergonomics enforcement review board.

The department is to report on these efforts to the WISHA Advisory Committee annually.

Steve noted that this memo was just introduced at the last Advisory Committee meeting – that no timeframes for any of the directives have been established. Further discussions will take place at the next meeting.

**Preferred Worker Program – Kathy Kimbel**

Kathy reported that questions had been raised about the Preferred Worker Program and as a result she requested an internal audit of the program, which found the department was allowing certifications outside of what the rule (WAC 296-16-010) allowed. The audit found there was no tracking system in place, that we were certifying and providing extension on the 36 months without any justification and without provisions as directed in rule, that we were not asking for or receiving any sort of information from a vocational counselor regarding the reason why the worker could not return to work due to his/her injury. In addition, we found that employers would move a person to a job, then during the last few months of the 36 months move them to another job to get an additional 36 months of reduced premiums for that worker – this is not allowed in the rules. The rules also states that an intent to hire an preferred worker must be filed within 60 days from the date of hire – we were approving those outside of the timeline.

Kathy indicated, bottom line, the program was not being administered correctly. She reported no changes have been made to the program; staff is now administering it correctly. Interim policies have been drafted and will be stakeholder for feedback. A work session will be scheduled mid-May to gather input for suggestions on rule changes to further enhance the program. Kathy reported it is anticipated this work will be completed over the next 90 days. All information regarding the permanent administration of the Preferred Worker's Program will be shared at that time.

*Business indicated they understand there have irregularities in the administration of the program; however, their concern was no communication had gone out to the self-insured employers when the voc rehab counselors were notified of the administrative correction. Business request that notification be sent.*

*It was also suggested there be a full discussion of the Preferred Worker Program, its statute and the administration of the program. The committee asked that the department share a copy of the audit and its work plan.*

**The Preferred Worker Program will be placed on the agenda for the next quarterly meeting.**

**Health Policy Update – Jami Lifka/Grace Wang**

Jami reminded the committee the department was in the middle of the rules process for presumptive coverage for fire fighters. The public hearing on the proposed WACs was held April 15, 2003, in the auditorium of the department's Tumwater office. Written comments need to be received by 5:00 p.m. April 22, 2003. The proposed rules are scheduled for adoption on May 28, with a scheduled effective date of July 1, 2003.

Jami also reported stakeholders would be receiving some expedited rules to take care of some basic house cleaning of the Medical Aid Rules, specifically to update definitions.

Grace referenced and talked briefly about the department's latest health technology assessment of extracorporeal shockwave therapy for the treatment of musculoskeletal disorders completed/dated January 27, 2003 (copy was provided in the meeting packet). The department's

review showed that the evidence regarding effectiveness of this therapy is inconclusive. As a result, the Office of the Medical Director made a non-coverage decision and will continue to monitor peer reviewed medical literature to revisit their decision in March 2004.

**IME Improvement Project – Dave Overby**

Dave reported the project team gathered feedback from internal and external stakeholders regarding the draft proposed recommendations during February and into March; assessed the feedback during March; and revised some of the proposed recommendations based on the feedback received. The revised proposed recommendations will be presented to the IME Steering Committee on April 23; Bob Malooly and Joel Sacks will be briefed on April 28; and the revised recommendations will be presented to the director on May 8, 2003. A copy of Dave's presentation materials, which provide detail about each of the draft improvement recommendations, as proposed in January, were provided by Dave at the meeting and will be filed as a permanent part of the meeting minutes.

**Occupational Health Services Pilot Project Update – Roy Plaeger-Brockway**

Roy provided an update on the two pilot projects currently underway to expand occupational health care expertise of physicians for the purpose of improving health care processes, outcomes and satisfaction.

The first pilot started 11 months ago at the Renton Valley Medical Center. Approximately 100 pilot doctors have enrolled; and approximately 4,260 injured workers have had pilot doctors submit their Report of Accident. Physicians are attending free continuing medical education classes in occupational health practices. Roy reported that changes are being noticed with regards to the timelines of accident reports: reports being submitted went from eight percent to 49 percent within two days; the average time to submit the report went from 6.2 days to 3.4 days.

The second pilot, which is being established in Spokane at St. Lukes signed their contract last December and have hit the ground running. Roy indicated staff at St. Lukes is excited about this project; there is a high community interest in making this pilot work. The pilot is ready to begin enrolling doctors; free continuing medical education classes are scheduled for April 26, August 9, October 18 and February 21, 2004. Roy noted he still needed Business to appoint their members for the Spokane advisory board – Roy to follow up with Clif Finch.

**Additional information provided in the meeting packets:**

- Quarterly statistics from the Board of Industrial Insurance Appeals (Tom Egan was not available to attend the meeting).
- Copy of the Oregon Workers' Compensation Premium Rate Ranking report for calendar year 2002.